



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

December 10, 2008

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

Kim Dirks
Tyson Fresh Meats Inc
Stevens Port DR Suite DD 709
Dakota Dunes SD 57049

Re: Application for Permit No. 63-12546—Protest; Further Processing

Dear Mr. Dirks:

Enclosed is a copy of a protest filed against the issuance of a water right permit pursuant to the above-referenced application. As part of the application process, the following are options available for resolution of contested (protested) applications:

- Direct contact** with the protestant(s) to determine what is being disputed in the application and parties attempting to resolve the protest. Sincere conversation between the parties prior to initiation of formal proceedings can often resolve protest(s).
- Formal Proceedings** a Department pre-hearing conference & hearing through the water appropriation statute/rule process. A pre-hearing conference identifies the protest issues and reviews the resolution possibilities with the parties. If the issues can not be resolved, a formal hearing will be scheduled.
- Mediation** through a certified professional mediator. The advantages can include: reduced costs and time that are associated with formal proceedings, the ability to address non-water concerns, more influence over a final settlement, and fast track processing by the Department for parties reaching a mediated agreement. If you are interested in this option, please contact our office for details.

Please consider with the protestant the best option(s) for resolution of the contested application.

Further Processing

Idaho Code 42-203A(5) outlines the evaluation criteria that must be met for a new water appropriation approval. For further processing of your application, please provide the following information to the protestant and our agency:

- Will the proposed use injure/reduce the quantity of ground water available for existing water rights? Provide ground water data and arguments that support non-injury.*
- Is the proposed ground water supply sufficient for the purposes intended? Is the source source sustainable? Provide data and arguments*

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-Will the proposed use under this appropriation conflict with the local public interest? That is, the interests that the people in the area directly affected by a proposed water use have on the effects of such use on the public water resource.

-Will the proposed use be contrary to conservation of water resources within the State of Idaho.

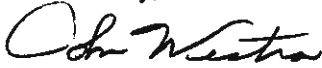
-Provide a analysis of other right overlap in relation to this new application—place of use and points of diversion for the same irrigated lands—what goes where.

-Provide a map locating existing and proposed wells that will be utilized under the proposed application. Also, provide information (location, well logs) for select wells located in a 5 mile radius of the proposed project.

Please submit the requested information to allow further evaluation/processing of the application. Your information response or request for more time must be received with 90 days of the date of this letter. The application will be voided without a timely response. A list of local consultants is enclosed should you need assistance.

Should you have questions or concerns please contact me at the Western Regional Office, phone 334-2190.

Sincerely,



JOHN WESTRA

Western Regional Manager

Cc: ID Dept. of Corrections

Attachment: Protest, Consultant List. Application